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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 JASON R. PENTA,

12 Plaintiff,

13 v.

14 STEVEN A. BOND, et al.,

15 Defendants.
16

No. 2:22-CV-1215-DAD-DMC

FINDINGS AND RECOMMENDATIONS

17 Plaintiff, who is proceeding pro se, brings this civil action. Pending before the
18 Court are Defendants' unopposed motions to dismiss, ECF Nos. 21 and 23.

19 In their motion to dismiss, Defendants Steven M. Dean and Dean Law Firm, Inc.,
20 argue:

21 All of Plaintiff's civil rights claims fail to state a claim against Dean
22 and Dean Law Firm, Inc., because they are not state actors.

23 Plaintiff's claims under the Fourth, Fifth and Fourteenth Amendments
fail because Plaintiff has not alleged facts to demonstrate state action.

24 Plaintiff's complaint is barred in its entirety by the Rooker-Feldman
25 doctrine.

26 Plaintiff's state law claims against Dean and Dean Lar Firm, Inc.,
27 must be stricken under California Code of Civil Procedure § 425.6
and are barred under the Noerr-Pennington doctrine.

28 See ECF No. 21.

1 In support, Defendants Dean and Dean Law Firm, Inc., ask the Court to take
2 judicial notice of Dean Law Firm, Inc.'s, California State Bar profile. See ECF No. 21-3.

3 In their separate motion to dismiss, Defendants Northern Line Builders, Inc.,
4 Steven A. Bond, Jason M. Saunders, Joseph R. Carter, and Pamela M. Carter argue Plaintiff's
5 complaint fails to state any claim upon which relief can be granted. See ECF No. 23.

6 Pursuant to the Court's September 6, 2022, order, the motions were set for hearing
7 on October 19, 2022. See ECF No. 4. As of September 28, 2022, Plaintiff had not filed
8 oppositions to either pending motion within the time permitted under the local rules and the Court
9 issued an order vacating the October 19, 2022, hearing and taking the matters under submission
10 without oral argument. See ECF No. 25. To date, Plaintiff has not filed any response to the
11 pending motions to dismiss.

12 Pursuant to Eastern District of California Local Rule 230(c), (l), the Court
13 construes Plaintiff's failure to oppose the pending motions to dismiss as consent to the relief
14 requested. The Court also recommends dismissal of unserved defendants Robert Lee Hamilton,
15 Julie H. Hamilton, M.D., Inc., Hamilton Law, and Norcal Houseboats for failure to effect timely
16 service of process under Federal Rule of Civil Procedure 4(m).

17 Based on the foregoing, the undersigned recommends that:

18 1. Defendants' unopposed motions to dismiss, ECF Nos. 21 and 23, be
19 granted;
20 2. Unserved defendants Robert Lee Hamilton, Julie H. Hamilton, M.D., Inc.,
21 Hamilton Law, and Norcal Houseboats be dismissed for failure to effect timely service of process
22 under Federal Rule of Civil Procedure 4(m);

23 3. Plaintiff's motion at ECF No. 7 be denied as moot; and

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1 4. This action be dismissed in its entirety.

2 These findings and recommendations are submitted to the United States District
3 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
4 after being served with these findings and recommendations, any party may file written objections
5 with the Court. Responses to objections shall be filed within 14 days after service of objections.
6 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
7 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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9 Dated: November 3, 2022

A handwritten signature in dark ink, appearing to read 'Dennis M. Cota', written over a horizontal line.

DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE